

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

In re Petition of Verizon New England Inc. for
Arbitration of an Amendment to Interconnection
Agreements with Competitive Local Exchange
Carriers and Commercial Mobile Radio Service
Providers in Massachusetts Pursuant to Section 252
of the Communications Act of 1934, as Amended,
and the *Triennial Review Order*

Docket No. 04-33

**MOTION BY AT&T FOR EXTENSION OF JUDICIAL APPEAL PERIOD AND
PERIOD FOR FILING MOTION FOR RECONSIDERATION**

Pursuant to 220 CMR 1.11(11), AT&T Communications of New England, Inc. (“AT&T”)¹ moves that the Department extend the January 4, 2005 deadline for filing a motion for reconsideration of, and a judicial appeal from, the decision and order D.T.E. 04-33, dated December 15, 2004 (the “December 15 Arbitration Decision”). Due to holiday vacation schedules, individuals at AT&T with the knowledge and experience needed to analyze issues related to routine network modifications (“RNMs”) and individuals with ultimate responsibility for determining AT&T’s position regarding RNMs have not been available. Specifically, AT&T requests that the deadline for filing a motion for reconsideration be extended to January 21, 2005 and that the judicial appeal period be extended until twenty days following such time as the Department rules on that motion for reconsideration. Good cause exists for AT&T’s motion as set forth below.

¹ AT&T Communications of New England, Inc. files this motion on behalf of itself and all other AT&T entities in Massachusetts, including Teleport Communications – Boston (“TCG”) and ACC National Telecom Corp. (“ACC”).

1. Under 220 CMR 1.11 and G.L. c. 25, § 5, the appeal period is typically twenty days. However, the General Court has granted power to the Department to allow a longer period. *See*, G.L. c. 25, § 5 (“Such petition for appeal shall be filed with the secretary of the commission within twenty days after the date of service of the decision, order or ruling of the commission, *or within such further time as the commission may allow upon request* filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling.”) (emphasis added). Under 220 CMR 1.11(11), “reasonable extensions *shall* be granted upon good cause” (emphasis added).

2. The Department issued the December 15 Arbitration Decision during the week preceding a significant vacation period at AT&T. During the two weeks preceding Christmas and New Years respectively, many of the individuals responsible for the issues raised by the December 15 Arbitration Decision, including the RNM issue, have been on vacation.

3. AT&T did not have any reason to expect the December 15 Arbitration Decision at that time, in order to allow for the resources to address it over the vacation period. The most recent activity in this case prior to the issuance of the December 15 Arbitration Decision had been in September, when AT&T and Verizon filed their respective proposed amendments. In its December 15 Arbitration Decision, the Department addressed the issue of RNMs that had been pending since May or June, 2004 in this docket. AT&T therefore respectfully submits that its requests for extension of the reconsideration and appeal periods should be granted as a matter of basic fairness.

4. It is well settled that the filing of a motion for extension of the judicial appeal period automatically tolls the appeal period for the movant until the Department

has ruled on the motion. *Nandy*, D.P.U. 94-AD-4-A n.6 (1994); *Nunnally*, D.P.U. 92-34-A at 6 n.6 (1993). The Department has also granted motions to extend the judicial appeal period pending the Department's ruling on a motion for reconsideration. *Cambridge Electric Light Company*, D.P.U. 97-111-B (1998).

5. Due to the unavailability of necessary individuals during the vacation period, AT&T has not been able to determine with certainty whether it will seek reconsideration or whether it will appeal the Department's December 15 Arbitration Decision. AT&T seeks by this motion to preserve its rights to do so, and submits that it should be given that opportunity as a matter of basic fairness in light of the timing of the Department's decision.

WHEREFORE, AT&T requests that the deadline for filing a motion for reconsideration be extended to January 21, 2005 and that the judicial appeal period be extended until twenty days following such time as the Department rules on that motion for reconsideration.

**AT&T COMMUNICATIONS OF
NEW ENGLAND, INC.**

Respectfully submitted,

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